

Remarks

The following numbered paragraphs are provided to respond to the similarly numbered paragraphs in the Office Action (e.g., paragraph "1" below corresponds to paragraph 1 in the Office Action).

As an initial matter, Applicant notes that the Office Action indicates inconsistent information regarding the finality of the Office Action. In this regard, on the summary page the action indicates that it is a non-final action while paragraph 6 of the Office Action indicates that the action is final. Applicant called the Examiner on October 28, 2003 to determine the finality of the Action and the Examiner confirmed that the Action was non-final. Therefore, Applicant has responded to the outstanding Action as though it were a non-final Action.

1. Applicant thanks the Examiner for indicating that the IDS information previously submitted has been considered.

With respect to the additional prior art submitted herewith, Applicant brings to the examiner's attention to the fact that patents related to the present application are currently involved in litigation and that a sub-set of the documents that are submitted herewith were cited in the litigation for the purpose of showing invalidity of various claims involved in that litigation. To this end, a list of references including two patents and 18 articles that were cited during the litigation for invalidity purposes is included herewith as a separate document titled "Prior Art Cited in Litigation of Related Patents". Each of the references listed in the additional document is also included on the 1449 form included herewith. In a first column in the additional document, for each one of the non-patent references, Applicant has indicated the cite number from the accompanying 1449 form to help the examiner easily reference the documents.

2. The Office Action objected to the abstract. Applicant reviewed the abstract and believes that the abstract is in the proper one sentence form. If this objection is not withdrawn Applicant requests that the Examiner be more specific regarding the problem with the abstract.

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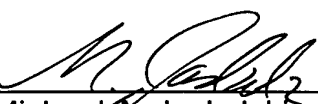
3. Claim 32 has been amended so that claim pends form claim 31.
4. Applicant has submitted a terminal disclaimer with this response to overcome the double patenting rejection.
5. Applicant thanks the Examiner for allowing claims 1-19, 22-31 and 33-34.

Applicant has introduced no new matter in making the above amendments and antecedent basis exists in the specification and claims as originally filed for each amendment. In view of the above amendments and remarks, Applicant believes claims 1-43 of the present application recite patentable subject matter and allowance of the same is requested. No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment, however, if an additional fee is required, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

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